

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FAST TRAC TRANSPORTATION, LLC
Plaintiff,

v.

CAROLINA CASUALTY INSURANCE
COMPANY,
Defendant.

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Civil Action No. 4:20-cv-00057

**DEFENDANT CAROLINA INSURANCE COMPANY'S
NOTICE OF REMOVAL**

Defendant CAROLINA CASUALTY INSURANCE COMPANY (hereinafter
“Defendant”) files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 as
follows:

I. NATURE OF THE SUIT

1. This is an insurance coverage lawsuit arising out of an insurance claim submitted
by Fast Trac Transportation, LLC, (hereinafter “Plaintiff”) for alleged DTPA, breach of contract,
breach of duty in good faith and fair dealing, and attorneys’ fees alleging that Defendant
wrongfully cancelled their policy. Plaintiff alleges generally that Defendant wrongfully terminated
their contract. *See* Original Petition, Exhibit B.

II. PROCEDURAL BACKGROUND

2. On November 18, 2019, Plaintiff filed an Original Petition initiating an action in
the 113ath Judicial District Court of Harris County, Texas, bearing Cause No. 2019-83282 (“the
State Court Action”). *See* Exhibit B.

3. Plaintiff is a domestic for-profit limited liability company doing business in Harris
County, Texas.

4. Defendant Carolina Casualty Company is a foreign insurer licensed to do business in Texas and duly registered with the Texas Department of Insurance and may be served with process through its registered agent C.T. Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

5. Plaintiff filed this action on November 18, 2019.

6. The Citation was served CT Corporation Systems on December 2, 2019. *See* Exhibit D.

7. Removal based on diversity of citizenship may only be effectuated if none of the parties in interest properly joined and served as defendants is a citizen of the State in which the action is brought.¹ The district courts of the United States have original jurisdiction over this action based on complete diversity, in that Defendant is now and were at the time this action was commenced, diverse in citizenship from Plaintiff and not a citizen of the State of Texas.

8. The amount in controversy also exceeds \$75,000 in addition to diversity of citizenship.²

BASIS FOR REMOVAL

9. This Court has diversity jurisdiction under 28 U.S.C. §1332 over this civil action, and the action may be removed by Defendant pursuant to 28 U.S.C. §1441(b), as it is a civil action between citizens of different states, and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

10. According to Plaintiff's state court pleadings, Plaintiff alleges it is "a domestic for-profit limited liability company doing business in Harris County." *See* Exhibit B.

¹28 U.S.C. § 1441.

²28 U.S.C. § 1332(a).

11. Carolina Casualty Insurance Company is not a citizen of Texas and is neither incorporated in, nor has its principal place of business in, Texas. Plaintiff alleges merely that Carolina Casualty Company maintains a registered agent in Texas. *See* Exhibit B.

12. Carolina Casualty Insurance Company is incorporated in Iowa and maintains its principal place of business in Florida. Carolina Casualty Insurance Company is an eligible foreign insurer in Texas.

13. Because Plaintiff is a citizen of Texas, and Defendant is a citizen of Iowa, complete diversity of citizenship exists among the parties.

14. Plaintiff's Original Petition states that it seeks "monetary relief of more than two hundred thousand dollars (\$200,000.00) but less than one million dollars (\$1,000,000.00)." *See* Exhibit B. Because the amount in controversy exceeds \$75,000, this Court has subject matter jurisdiction under 28 U.S.C. § 1332, and this removal is proper.

15. Removal to the Southern District of Texas, Houston Division is proper because the state court action is pending in Harris County which is part of the Houston Division.

16. In compliance with Local Rule 81, Defendant attaches to this Notice of Removal: (1) All executed process in the case; (2) pleadings asserting causes of action; (3) all orders signed by the state court judge; (4) the docket sheet; (5); an index of matters being filed; and (6) a list of all counsel of record, including addresses, telephone numbers and parties represented.

17. In compliance with 28 U.S.C. § 1446(d), Defendant hereby certifies it will promptly notify the clerk of the court in the State Court Action and all adverse parties of this removal.

18. Defendant is simultaneously filing a separately signed Corporate Disclosure which complies with Fed. R. Civ. P. 7.1.

III. CONCLUSION AND PRAYER

19. The basis for this removal and this Court's jurisdiction is diversity of citizenship under 28 U.S.C. §1332 because Plaintiff is a citizen of Texas, while Defendant is a citizen of Iowa. Based on Plaintiff's pleadings, the amount in controversy exceeds \$75,000, exclusive of interest and costs. As such, this removal is proper under 28 U.S.C. §1441. On these grounds, Defendant hereby removes the referenced State Court Action to this Court.

20. Defendant demands a jury in this removed action.

21. Defendant Carolina Casualty Company respectfully requests that the above-entitled action be removed from the 113th Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

By: /s/Christopher W. Martin
Christopher W. Martin
State Bar No. 13057620
Federal I.D. No. 13515

MARTIN, DISIERE, JEFFERSON & WISDOM, L.L.P.
808 Travis, 20TH Floor
Houston, Texas 77002
Telephone: (713) 632-1700
Facsimile: (713) 222-0101
Email: martin@mdjwlaw.com

**ATTORNEY IN CHARGE FOR DEFENDANT,
CAROLINA CASUALTY INSURANCE
COMPANY**

OF COUNSEL:

Sherelle W. Sanders
State Bar No. 24013745
Federal I.D. No. 579524

808 Travis, Suite 1100
Houston, Texas 77002
Telephone: (713) 632-1700
Facsimile: (713) 222-0101
Email: sanders@mdjwlaw.com

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above document has been forwarded via e-filing pursuant to Fed. R. Civ. P. 5, on January 7, 2020 to:

The Fuentes Firm, P.C.
Robert Fuentes
State Bar No. 24005405
Sadi R. Antonmattel-Goitia
State Bar No. 24091383
5507 Louetta Road, Suite A
Spring Texas 77379
Email: Robert@fuentesfirm.com
Email: Sadi@fuentesfirm.com

ATTORNEYS FOR PLAINTIFF,
FAST TRAC TRANSPORTATION, LLC.

/s/Christopher W. Martin

Christopher W. Martin